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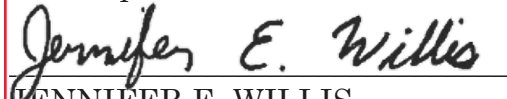
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Via ECF

Hon. Jennifer E. Willis, Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street, Room 425
New York, New York 10007

This request is GRANTED. The August 28, 2024 settlement conference is adjourned *sine die*. Should the Parties wish to hold a settlement conference in the future they should contact my courtroom deputy Christopher Davis via email. SO ORDERED.


JENNIFER E. WILLIS
United States Magistrate Judge
August 21, 2024

Re: *Fidelity and Guaranty Insurance Company v. Accredited Surety and Casualty Insurance Company, Inc.*
Case No. 1:23-cv-06427-AT
Our File No. 20318.00331
Request for Cancellation or Adjournment of Settlement Conference

Dear Judge Willis:

This firm represents the defendant Accredited Surety and Casualty Insurance Company, Inc. (“Accredited” or “ASCC”) in the above-referenced matter. This matter is scheduled for a settlement conference before Your Honor on August 28, 2024. We have consulted with counsel for the plaintiff Fidelity and Guaranty Insurance Company (“Fidelity”), and they join in the making of this application.

We request cancellation or adjournment of the settlement conference in this matter. Both parties have motions for summary judgment pending before Judge Torres.

The above-referenced matter is a declaratory judgment action in which the plaintiff, Fidelity and Guaranty Insurance Company (“Fidelity”) seeks, *inter alia*, a declaration that the Fidelity named insured, Madison Restoration Corp. (“Madison”) is an Additional Insured under a Commercial General Liability policy (“Accredited Policy”) issued by Accredited to Kings Group NY Corp. (“Kings Group”). Fidelity further seeks declarations that, *inter alia*, Accredited is obligated to defend and indemnify Madison as an Additional Insured in the personal injury lawsuit brought by Jose Cajamarca (“Cajamarca”) in the Supreme Court of the State of New York, County of Bronx; Index No. 817055/2021E (“Cajamarca Action”) under the Accredited Policy on a primary basis.

Accredited maintains that Fidelity cannot meet its burden to establish an entitlement to coverage under the Accredited Policy as Madison does not qualify as an Additional Insured. In summary, it is Accredited’s position that Madison cannot show that it meets the requirements of the Accredited Policy because Cajamarca’s alleged bodily injury was not caused, in whole or in

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part, by Kings Group's "acts or omissions...in the performance of [its] ongoing operations" performed for Madison as the potential Additional Insured. Fidelity's position is diametrically the opposite; that the allegations made in the Cajamarca action required a defense by Accredited of its insured, Madison.

After the dispositive motions were fully briefed, the Cajamarca action was discontinued, without payment, as against Madison and Kings Group NY LLC (Accredited's insured), thereby capping any potential damages and precluding any Fidelity/Madison claim for indemnification.

Following the discontinuance of the Cajamarca action, we have consulted with our client, Accredited, as to its settlement posture. As a result of those discussions, and under all of the current circumstances, Accredited is disinclined to make any settlement offer.

We have relayed Accredited's position to counsel for Fidelity and it is the position of all parties that there is no prospect of settlement at this time. Accordingly, having no wish to impose on the Court's precious time, the parties jointly request that the settlement conference be cancelled or adjourned *sine die*.

We appreciate Your Honor's consideration of this matter.

Respectfully submitted,

Nicoletti Spinner Ryan Gulino Pinter LLP

A handwritten signature in blue ink, appearing to read "ESB", with a stylized flourish at the end.

Edward S. Benson

ESB

c.c. Via ECF

All Counsel of Record